

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**BELTEX CORPORATION d/b/a
FRONTIER MEATS,**

Plaintiff,

V.

**ROBERT HEATH TRUCKING, INC.
and ROBERT HEATH LOGISTICS, INC.,**

Defendants.

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendants Robert Heath Trucking, Inc., and Robert Heath Logistics, Inc., erroneously sued as Robert Heath Logistic, Inc., (“Defendants”), file this Notice of Removal and respectfully show the Court the following:

1. On or about December 12, 2018, an action was commenced against Defendants in the 236th Judicial District Court of Tarrant County, Texas, entitled *Beltex Corporation d/b/a Frontier Meats v. Robert Heath Trucking, Inc. et al.*, with the assigned cause number of 236-304923-18. The following documents are attached as exhibits to this Notice and are incorporated herein:

- An index of the state court filings is attached hereto as Exhibit 1;
- The state court's certified docket sheet is attached hereto as Exhibit 2;
- Plaintiff's Original Petition is attached hereto as Exhibit 2A;

- Citation and return of service to Robert Heath Trucking, Inc. is attached hereto as Exhibit 2B;
- Citation to Robert Heath Logistic, Inc. is attached hereto as Exhibit 2C;
- Return of Citation for Robert Heath Logistic, Inc. is attached hereto as Exhibit 2D.

2. Defendant Robert Heath Trucking, Inc.'s first receipt of Plaintiff's Original Petition was through service of the Citation and Petition on January 28, 2019. Defendant Robert Heath Logistics, Inc.'s first receipt of Plaintiff's Original Petition was through service of the Citation and Petition on February 4, 2019. No other pleadings have been filed. All Defendants join in this Notice.

3. This Notice of Removal is filed within thirty (30) days of Defendants' receipt of Plaintiff's Original Petition December 30, 2018, and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

4. In its Petition, Plaintiff alleges that Defendants' driver failed to timely deliver a May 2, 2018, shipment of meat (the "Shipment") from Texas to California, resulting in the total loss of the Shipment. Exhibit 2A, Petition, paragraphs 11-14. Since this action arises from alleged loss and damage to the interstate transportation of a shipment via motor carrier, it is subject to and governed by the Carmack Amendment. See 49 U.S.C. 13501(1). The Carmack Amendment, codified under 49 U.S.C. § 14706, governs liability for loss or damage to shipments moved in interstate commerce.

5. Cases within a federal court's original jurisdiction are removable. 28 U.S.C. §1441(b). Federal courts have original jurisdiction over federal questions, such as those involving federal laws like the Carmack Amendment. See 28 U.S.C. § 1331.

6. Title 28 U.S.C. § 1337(a) grants original jurisdiction only to Carmack Amendment cases exceeding \$10,000 in controversy. Thus, Carmack Amendment cases are not removable “unless the matter in controversy exceeds \$10,000 exclusive of interest and costs.” 28 U.S.C. § 1445(b). Plaintiff’s Petition alleges damages for loss of the Shipment in excess of \$100,000. Exhibit 2A, Petition, paragraph 17. Plaintiff’s claim for damages exceeds the minimal jurisdictional value of \$10,000, as required by 28 U.S.C. § 1337(a) and 28 U.S.C. § 1445(b).

7. Plaintiff could have originally brought its claim in this Court, as there is federal question jurisdiction, and venue is proper in this Court.

8. Written notice of the filing of this Notice of Removal has been given to all parties herein, and a copy of this Notice has been mailed to the District Clerk of Tarrant County, Texas.

WHEREFORE, Defendants remove this action from the 236th Judicial District Court of Tarrant County, Texas, to this Court on or about this 13th day of February, 2019, pursuant to 28 U.S.C. § 1446.

Respectfully submitted,

/s/ Vic H. Henry

Vic H. Henry

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**ATTORNEYS FOR DEFENDANTS
ROBERT HEATH TRUCKING, INC. AND
ROBERT HEATH LOGISTICS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February, 2019, a true and correct copy of the foregoing was served on the following counsel of record via the Court's ECF system and/or certified mail, return receipt requested:

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/s/ Vic H. Henry
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